REMARKS

Claims 1-15 are all the claims pending in the application.

I.   Claim Rejections under 35 U.S.C. § 112

Claims 1, 6, 10, 12 13, 14 and 15 are rejected under 35 U.S.C. § 112, second paragraph as

allegedly "being indefinite for failing to particularly point out and distinctly claim the subject

matter, e.g. the terms *'resources'* and *'resource* level scheduler,'" which applicant regards as the

invention," (Office Action, page 2). Specifically, the Examiner requests that the *'resources'* be

defined within the claim body.

Applicant respectfully submits that claims 1, 6, 10, 12 13, 14 and 15 are not indefinite

and are patentable under 35 U.S.C. § 112. While 35 U.S.C. § 112, second paragraph, requires

that "[the] specification shall conclude with one or more claims particularly pointing out and

distinctly claiming the subject matter which the applicant regards as his invention," the statute,

and also the MPEP does not require that every term used in the claims be defined in the body of

the claim. For example, section 2173.05(a) of the MPEP states that:

> The **meaning of every term used in a claim should be
> apparent from** the prior art or from **the specification** and
> drawings at the time the application is filed. Applicants need not
> confine themselves to the terminology used in the prior art, but are
> required to make clear and precise the terms that are used to define
> the invention whereby the metes and bounds of the claimed
> invention can be ascertained. During patent examination, the
> pending claims must be given the broadest reasonable
> interpretation consistent with the specification. *In re Morris*, 127
> F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re
> Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969). See also
> MPEP § 2111 - § 2111.01. **When the specification states the
> meaning that a term in the claim is intended to have, the claim
> is examined using that meaning**, in order to achieve a complete

> exploration of the applicant's invention and its relation to the prior
> art. *In re Zletz*, 893 F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989).

Applicant refers the Examiner to at least paragraphs 2, 6, 8 and 39-46 of the published

application which recites exemplary meanings of the term "resource" in the claim.

II.   Claim Rejections under 35 U.S.C. § 103

Claims 1, 2, 4, 8, 9, 10 and 12-15 are rejected under 35 U.S.C. § 103 as allegedly being

unpatentable over Wallmeier (U.S. Patent No. 6,553,033; hereinafter "Wallmeier") in view of

Guidos (U.S. Patent No. 4,725,836; hereinafter "Guidos"). Claims 3 and 5 are rejected under 35

U.S.C. § 103 as allegedly being unpatentable over Wallmeier in view of Guidos and in further

view of Fan et al. (U.S. Patent No. 6,408,005; hereinafter "Fan"). Claims 6 and 7 are rejected

under 35 U.S.C. § 103 as allegedly being unpatentable over Wallmeier in view of Guidos and in

further view Biroux et al. (*Quality of Service in ATM Networks: State-of-the-Art Traffic*

Management; hereinafter "Biroux"). Claim 11 is rejected under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Wallmeier in view of Guidos, and further in view of Bisson et al. (U.S.

Publication No. 2003/0059159; hereinafter "Bisson"). Claim 16 is rejected under 35 U.S.C. §

103(a) as allegedly being unpatentable over Wallmeier in view of Guidos, in further view of Siu

et al. (U.S. Publication No. 2008/0310418; hereinafter "Siu"). For at least the following reasons,

Applicant respectfully traverses the rejection.

Claim 1 is amended to recite the subject matter of dependent claim 16. Claim 16 is

subsequently canceled. Specifically, claim 1, as amended, recites a scheduler device for

scheduling a transmission of data from a plurality of queues in a source node to a plurality of

destination nodes via a plurality of outlet ports of said source node, said scheduler device

comprising:

> a plurality of servers, each being associated with a respective one of a plurality of resources and each comprising a scheduler module which is independent for each of said servers,

> wherein each of said outlet ports is associated with a respective one of said plurality of resources,

> wherein the data is transmitted from a source node to a destination node via an outlet port and a corresponding resource,

> wherein at least one of said plurality of resources is used for transmitting data to more than one of said plurality of destination nodes, and

> wherein at least one of said plurality of resources is used for transmitting data to a subset of the plurality of destination nodes, and

> wherein said source node further comprises a plurality of buffers which store data prior to the data being transmitted, and

> wherein each of the plurality of buffers corresponds to a different destination node.

The Examiner acknowledges that neither Wallmeier nor Guidos, independently or in

combination, teach or suggest the claimed feature of "wherein each of the plurality of buffers

corresponds to a different destination node." Instead the Examiner relies on the newly

referenced prior art of Siu as allegedly addressing this deficiency of Wallmeier.

Specifically, the Examiner seems to be asserting that the queues 314_{a-n} (FIG. 3) of Siu

correspond to the claimed plurality of buffers and the outputs 318_{a-n} (FIG. 3) of Siu correspond

to the claimed plurality of destination nodes. The Examiner then refers to paragraph 27 of Siu

and asserts that "[each] parallel output data packet originates from a *single queue*, which is used

to store data packets intended for a *single destination*; fig. 3: queues 314_{a-n} to outputs 318_{a-n} respectively," (Office Action, page 9). The Examiner appears to have misinterpreted the disclosure of Siu.

Siu discloses that the queues 314_a-314_n are progressively filled with cells, as the cells are received (paragraph 27). Then, "[when] a queue is full, the queue is transferred to a transposer circuit 316," (paragraph 27). Siu continues to disclose that the "transposer circuit receives a serial stream of data packets from a queue 314," (paragraph 27). That is, the cells in the full queue are sent to the transposer 316 in a serial fashion. However, Siu then discloses that "[the transposer] transposes the data packets into a set of parallel data packets that are applied to output ports 318_a-318_m," (paragraph 27). Clearly, Siu discloses taking the serial stream of data packets/cells from a *single queue* and transposes the data packets/cells into at most "n" parallel streams, which are applied to all the "n" output ports 318. As such, Siu does not teach or even remotely suggest at least the claimed feature of "wherein each of the plurality of buffers corresponds to a different destination node," as erroneously asserted by the Examiner.

Neither Fan, Biroux nor Bisson, independently or in combination, address the above-identified deficiency of Wallmeier, Guidos and Siu.

Accordingly, Applicant respectfully submits that claim 1 is patentable over the applied references, and further submits that claims 2-15 are patentable at least by virtue of their dependency on claim 1.

III.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

/ Rohit K. Krishna /

SUGHRUE MION, PLLC   Rohit K. Krishna
Telephone: (202) 293-7060   Registration No. 62,474
Facsimile: (202) 293-7860

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Date: May 11, 2009